IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 21ST AUGUST 2007 / 30TH SRAVANA 1929

WP(C).No. 18081 of 2005(C)

PETITIONER:

R.CHELLAMMA, W/O.LATE
A.N.DAMODHARAN, PUTHENPURACKAL,
VADACKAL, ALAPPUZHA-3.

BY ADV. SRI.K.K.SATHEESH
SRI.JOSHY THOMAS

RESPONDENTS:
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1. UNION OF INDIA, REPRESENTED BY THE
SECRETARY, MINISTRY OF HOME AFFAIRS,
FREEDOM FIGHTERS' DIVISION, LOK NAYAK BHAVAN,
KHAN MARKET, NEW DELHI-110 003.

2. STATE OF KERALA, REPRESENTED BY
THE SECRETARY, GENERAL ADMINISTRATION (FFP.A)
DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

BY ADV. SRI.RAJESH NAIR, CGC
GOVERNMENT PLEADER SRI. K.V.MANOJKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 18081/2005

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE ORDER NO. R.DIS 33251/88 DT. 22/3/88 BY THE DIST. COLLECTOR, ALAPPUZHA.

EXT.P2. COPY OF THE APPLICATION DT. 30/3/98 BY THE PETITIONER FOR THE GRANT OF SSS PENSION TO RESPONDENT.

EXT.P3. COPY OF THE PKC BY SRI. S. KUMARAN MP, DT. 18/3/74.

EXT.P4. COPY OF THE COMMUNICATION DT. 13/2/2001 BY THE DIST. COLLECTOR, ALAPPUZHA TO THE PETITIONER.

EXT.P5. COPY OF THE NARC BY THE CJM COURT, ALAPPUZHA.

EXT.P6. COPY OF THE AFFIDAVIT DULY ATTESTED BY THE JUDICIAL IST CLASS MAGISTRATE-II, ALAPPUZHA DT. 9/3/01.

EXT.P7. COPY OF THE COMMUNICATION DT. 7/12/01 BY THE R2 TO THE DIST. COLLECTOR, ALAPPUZHA.

EXT.P8. COPY OF THE REPRESENTATION BY THE PETITIONER DT. 10/3/05.

EXT.P9. COPY OF THE PKC BY SRI. H.K. CHAKRAPANI DT. 20/2/2005.

RESPONDENT'S EXHIBITS **NIL.**

True copy

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T.R. RAMACHANDRAN NAIR, J.

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WP(C).No. 18081 OF 2005-C.

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Dated this the 21st day of August, 2007.

J U D G M E N T

The petitioner is an applicant for grant of Swathantrata Sainik Samman pension. Her late husband Sri.A.N.Damodharan was a freedom fighter who had actively participated in the Punnapra-Vayalar movement. An arrest warrant was issued against him by the Special First Class Magistrate Court, Alappuzha in case No.P.E.7/1122 M.E. In order to evade the arrest he had gone underground for a period of more than six months from 30.10.1946 to 14.5.1947. The District Collector has granted pension under the State scheme as per Ext.P1. He died on 22.9.1997 and thereafter the petitioner is getting the benefit of dependent family pension vide PPO No.KFF 10450.

2. Ext.P2 is the application submitted for grant of SSS pension dated 30.3.1998 and along with it Ext.P3 personal knowledge certificate from Sri.S.Kumaran MP, had been produced. Thereafter the District Collector directed the petitioner to produce certain items of documents. In response to that the petitioner produced non-availability of records certificate from the Chief Judicial Magistrate Court, Alappuzha in P.E.7/1122 and affidavit duly attested by the Chief Judicial Magistrate, Alappuzha (Exts.P5 and P6). By

Ext.P7 the 2nd respondent has informed the petitioner through the District Collector, Alappuzha that the case cannot be recommended as the petitioner has not produced any documentary evidence. Thereafter the petitioner submitted Ext.P8 representation along with personal knowledge certificate issued by a prominent freedom fighter Sri.H.K.Chakrapani, order of the sanction of SSS pension to the certifier Sri.H.K.Chakrapani and true extract of the convict register of Central Prison, Thiruvananthapuram in respect of the certifier Sri.H.K.Chakrapani.

3. In the counter-affidavit filed by the first respondent it is stated that they are awaiting the recommendation from the State Government. In the counter-affidavit filed by the 2nd respondent it is averred that they have forwarded the application with enclosures along with Government letter dated 8.9.2005. But it is stated that the application has not been recommended. The reason for not recommending it is that in the application the petitioner did not mention the name of the freedom movement, the case number relating to her late husband and she has not produced the non-availability of records certificate also.

4. The learned counsel for the petitioner submits that the said stand is not correct. It is pointed out that the State Government had granted pension based on his participation in the Punnapra-Vayalar movement and in Ext.P3 certificate issued by Sri.S.Kumaran, MP, the case number P.E.7 has

been mentioned and the name of the movement Punnapra-Vayalar struggle has also been mentioned. It is further pointed out that in Column 11(1)(e) against the column 'underground' it has been clearly stated as underground and the certificate attached from Sri.S.Kumaran MP., is also mentioned. In Column 13 it has been clearly mentioned that State pension was granted to Sri.A.N.Damodharan and the same is continued in her favour after his death (along with the date of the proceedings). Therefore it is not a case where the relevant information as regards the case number was wanting. May be due to an inadvertence in filling the application the case number was not mentioned in the particular column. But since there are other evidence by way of order granting State pension and the certificate from Sri.S.Kumaran MP., the action in not recommending the application is not correct. Further there is certificate from Sri.H.K.Chakrapani Ext.P9 also. Hence the stand taken in Ext.P7 application cannot be recommended is not correct.

5. The other issue is regarding the non-availability of records certificate Ext.P5. Here, the case number is referred as P.E.7/1122 and what was sought for is attested copy of the arrest warrant in connection with the arrest of the petitioner. It is clearly mentioned that the records of the year 1122 have already been destroyed and hence the petition may be rejected. Evidently, the details of the case and the documents sought for are clearly mentioned. Therefore, it cannot be contended that the non-availability of

records certificate is also defective. All the objections are too technical. Therefore, there will be a direction to the 2nd respondent to reconsider the issue in the light of the above observations and forward due recommendation to the Government of India after considering Ext.P1 and other documents produced by the petitioner within a period of six weeks from the date of receipt of a copy of this judgment. On receipt of the same from the 2nd respondent, the first respondent shall pass appropriate orders within a further period of two months. The claim of the petitioner for arrears from the date of receipt of the application dated 30.3.1998 shall also be considered by the first respondent in the event of sanction of pension.

The writ petition is disposed of as above. No costs.

T.R.RAMACHANDRAN NAIR, JUDGE.

kvs/-